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15 MARK HUNT

16 **UNITED STATES DISTRICT COURT**  
17 **DISTRICT OF NEVADA**

18 MARK HUNT, an individual,  
19 Plaintiff,  
20 v.

21 ZUFFA, LLC d/b/a ULTIMATE  
22 FIGHTING CHAMPIONSHIP, a  
23 Nevada limited liability company;  
24 BROCK LESNAR, an individual;  
25 DANA WHITE, an individual; and  
26 DOES 1-50, inclusive,  
27 Defendants.

**Case No.: 2:17-cv-00085-JAD-CWH**

**REPLY IN SUPPORT OF MARK  
HUNT'S MOTION FOR LEAVE TO  
FILE SUPPLEMENTAL  
COMPLAINT**

27 Plaintiff Mark Hunt ("Hunt") submits this reply in support of his motion for  
28 leave of Court to file his proposed Supplemental Complaint.

## I.

**SUMMARY OF REPLY**

Defendants’ opposition to Hunt’s motion for leave to file his Supplemental Complaint is divided into two distinct parts. “Part One” is an attempt to justify Defendants’ wrongful removal of Hunt from UFC Fight Night 121. See ECF No. 103, at §§ I and II. This factual argument is entirely irrelevant to Hunt’s motion, and should be entirely disregarded by the Court. “Part Two” contains Defendants’ legal argument, mistakenly claiming that Hunt’s Supplemental Complaint is futile because of Defendants’ pending Motion to Dismiss.

Defendants’ Part One is legally irrelevant to Hunt’s motion for leave. Rather than discuss any factors set forth in Rule 15 or related case law, Defendants simply deny Hunt’s supplemental factual allegations and attempt to explain away why the medically fit Hunt was removed for purported medical concerns. To support their claim that they acted in good faith, UFC and Dana White rely on Dana White’s self-serving “open letter”. See ECF No. 103-2, Exh. 2 [Dana White open letter]. Defendants further cite to a Yahoo.com online journalist, Kevin Iole, for the proposition that “*Mark Hunt Shouldn’t be Mad at UFC or Dana White.*” See ECF No. 103-2, Exh. 3. Hunt respectfully submits that the opinions of Mr. White and Mr. Iole have no bearing on the issue before the Court – whether the proposed Supplemental Complaint satisfies Rule 15.

Part Two of Defendants’ opposition contends the Court should deny Hunt leave to file the proposed Supplemental Complaint because it would be legally futile, arguing it would not survive the pending Motion to Dismiss.<sup>1</sup> (ECF No. 103 at 5:14-17.) Hunt’s supplemental allegations add factual support to existing claims and, more importantly, provides notice that Hunt seeks additional damages in

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<sup>1</sup> Defendants also make sporadic reference to the supplemental allegations being unrelated or failing to “meaningfully tie” them to the existing claims. (See ECF No. 103 at 2:7-18.) While granting leave is left to the sound discretion of the court, Rule 15 contains no such relatedness consideration. Defendants correctly leave this argument out of their argument section. Therefore, it is not addressed further by Hunt.

1 connection with UFC Fight Night 121 in the form of fight camp expenses and a lost  
 2 fight purse. Therefore, Hunt's new allegations easily satisfy the low bar of Rule 15  
 3 supplemental pleadings.

## 4 II.

### 5 DISCUSSION

6 The legal standard is worth restating here: "The purpose of a supplemental  
 7 pleading is to provide complete relief in one action and 'to avoid the cost, delay, and  
 8 waste of separate actions which must be separately tried and prosecuted.'" *Veneman*  
 9 *v. J.P. Morgan Chase and Co.*, No. 3:10-CV-0394-LRH-VPC, 2011 WL 2183139,  
 10 at \*1–2 (D. Nev., June 3, 2011) (citing *Keith v. Volpe*, 858 F.2d 467, 473 (9th  
 11 Cir.1988) (citations omitted). "[L]eave of court should be given when justice so  
 12 requires and when there is no undue delay, bad faith, or dilatory motive on the part  
 13 of the moving party." *Id.* (citations omitted). Hunt could file a separate complaint  
 14 encompassing the new allegations in the proposed Supplemental Complaint for  
 15 breach of contract, breach of the covenant of good faith and fair dealing, fraud, and  
 16 related claims. Consistent with the plain language and intent of Rule 15, Hunt seeks  
 17 to include these allegations in the same case pending before this Court. While there  
 18 is little doubt Defendants have superior resources in this action, *Veneman*, for  
 19 example, recognizes that parties and the Court do not have unlimited resources.  
 20 Hunt's request for leave is a commonplace and common-sense request to prevent  
 21 duplicative actions. For these reasons, Hunt's motion serves the intent of Rule 15.  
 22 However, as discussed below, Defendants' futility argument is also unsound.

23 Defendants' sole legal argument contends that Hunt's supplemental  
 24 allegations "add nothing to his defective claims for relief," and that "Hunt's proposed  
 25 supplemental pleading would not survive the pending motion to dismiss." See ECF  
 26 No. 103 at 5:14-19. Hunt's Amended Complaint cured deficiencies identified by the  
 27 Court in his original complaint. See ECF No. 64. Defendants' Motion to Dismiss  
 28 the Amended Complaint is fully briefed and pending. As it relates to Hunt's request

1 for leave, however, Defendants’ argument is foreclosed by Rule 15, which provides:  
 2 “The court may permit supplementation even though the original pleading is  
 3 defective in stating a claim or defense.” Fed. R. Civ. P. 15(d). Defendants attempt  
 4 to sidestep the unfavorable legal standard of liberal amendments, and incorrectly  
 5 conclude Hunt’s proposed supplemental allegations are futile. See ECF No. 103 at  
 6 5:7-17.

7 Hunt’s claim for breach of the implied covenant of good faith and fair dealing  
 8 has already survived Defendants’ motion to dismiss. Similarly, Hunt’s breach of  
 9 contract claim was cured by amendment, specifically naming the contract provision  
 10 Defendants breached. For this reason alone, Defendants’ futility argument fails.  
 11 Hunt’s supplemental allegations identify not only \$100,000.00 in fight camp  
 12 damages (which Defendants attempt to categorize as unrecoverable consequential  
 13 damages, ECF No. 103 and fn. 6), but also allege a lost fight purse which constitutes  
 14 direct damages on the contract. (See Hunt’s proposed Supplemental Complaint at ¶  
 15 125.) Defendants offer the misguided conclusion that Hunt has not suffered fight  
 16 purse damages “assuming the fight goes forward as [rescheduled].” ECF No. 103 at  
 17 7:7-9. Defendants conclusion is wrong. Hunt has not, will not, and cannot recover  
 18 the UFC Fight Night 121 fight purse. Fighters necessarily have a finite time period  
 19 in which to compete and be compensated, which is inherent in all professional sports,  
 20 and especially in professional mixed martial arts. But for Defendants’ wrongful  
 21 conduct, Hunt would have competed in, and been compensated for, UFC Fight Night  
 22 121 and a subsequent bout such as UFC 221 on February 10, 2018. Unlike athletes  
 23 in some professional sports leagues where “guaranteed” contracts are awarded, Hunt  
 24 is compensated only when he fights. Hunt suffers irreparable financial harm when  
 25 his fights are wrongfully cancelled by Defendants. While Hunt maintains the  
 26 proposed Supplemental Complaint provides factual support and damages for all  
 27 claims, it *unequivocally* supports the contract-related claims. As indicated in Hunt’s  
 28 opposition to Defendants’ motion to dismiss his Amended Complaint, Hunt’s

1 Amended Complaint cured all deficiencies identified by the Court as to every claim.  
2 However, to the extent necessary to its decision, the Court may consider the  
3 Supplemental Complaint to decide the pending dispositive motion. *See e.g., Caribe*  
4 *Candy Co. v. Mackenzie Candy Co.*, 78 F.Supp. 1021, 1022 (N.D. Ohio, 1942).

5  
6 **III.**

7 **CONCLUSION**

8 For the foregoing reasons, Hunt requests the Court to grant leave of Court to  
9 file his proposed Supplemental Complaint.

10  
11  
12 DATED: January 5, 2018

HIGGS FLETCHER & MACK LLP

13  
14 By: /s/ Joseph A. Gonnella

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Attorneys for Plaintiff

MARK HUNT

**CERTIFICATE OF SERVICE**

Pursuant to Federal Rule of Civil Procedure 5 and the Court's Local Rules, the undersigned hereby certifies that on this day, January 5, 2018, a copy of the foregoing document entitled **MARK HUNT'S REPLY IN SUPPORT OF MOTION FOR LEAVE TO FILE SUPPLEMENTAL COMPLAINT** was filed and served through the Court's electronic filing system (CM/ECF) upon all registered parties and their counsel.



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Barbara Lodovice  
An employee of Higgs Fletcher & Mack LLP